



THE STATE OF FLORIDA
JUSTICE ADMINISTRATIVE COMMISSION

Post Office Box 1654 (32302)
227 North Bronough Street, Suite 2100
Tallahassee, Florida 32301



Alton L. "Rip" Colvin, Jr.
Executive Director

(850) 488-2415
Toll Free (866) 355-7902
FAX (850) 488-8944

www.justiceadmin.org

COMMISSIONERS

Brad King, Chair
State Attorney
Diamond R. Litty
Public Defender
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State Attorney
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Public Defender

MEMORANDUM #016---14HR

TO: Agency Administrators

FROM: Carolyn Horwich, J.D., Director of Human Resources

THROUGH: Rip Colvin, Executive Director

SUBJECT: On-Demand Payments

DATE: August 8, 2014

Background: In part due to an Operational Audit conducted by the Auditor General at selected state agencies in April, 2014, the Department of Financial Services (DFS) and the Department of Management Services (DMS) have instituted changes to the On-Demand Payroll System. One of the findings of the audit indicated that when agencies canceled salary payments, they often lacked good business practices and policies to recoup post-tax deductions paid to third parties, since post-tax deductions do not revert back to the employer automatically. The audit recommended that salary cancelations decrease and that each agency have its own miscellaneous deduction code.

Subsequent to the audit, the Justice Administrative Commission (JAC) secured its own miscellaneous deduction code. Further, JAC is providing this memorandum and attachments to assist the agencies we serve in decreasing the number of certain types of On-Demand payments requested. (The PowerPoint was presented at the Florida Public Defender Association Conference August 1, 2014.)

For the period of July 1 – 31, 2014, and each month thereafter, DMS will issue a Key Performance Indicator (KPI) that will track agencies' use of the On-Demand Payroll System for certain types of payments. The goal for each agency is to "reduce the number of on-demand payments to less than 1% of an agency's average population as of July 1 of each fiscal year." JAC's average population as of July 1, 2014, was 9,719. This works out to a goal of having fewer than 97 on-demand payments each month. In calendar year 2012, JAC averaged 129 on-demand payments per month. In calendar year 2013, the monthly average was 112. For the first five months of calendar year 2014, JAC averaged 88 per month. We are headed in the right direction but must continue to reduce the inappropriate use of on-demand payments.

Steps to Take: What does this mean for the agencies under Justice Administration? In short, we request that you please refrain from asking for an On-Demand Payment in *these* situations:

1. You have missed a payroll deadline
2. For OPS employees
3. For a leave payout *prior* to 31 days from termination (see attachment 3)
4. For a leave payout before an employee has actually joined DROP (even if the PAR has been processed)

Instead of the On-Demand Payroll System, these payments will be paid on the next Supplemental payroll. Otherwise, these types of on-demand payments will be tracked and counted against JAC's key performance indicator goals.

Attachments:

1. JAC PowerPoint Presentation
2. FAQ from DMS
3. DMS Rule Interpretation 60L-34-2008-#003

If you have any questions, please do not hesitate to contact me at Carolyn.Horwich@justiceadmin.org, or your payroll contact. Thank you.



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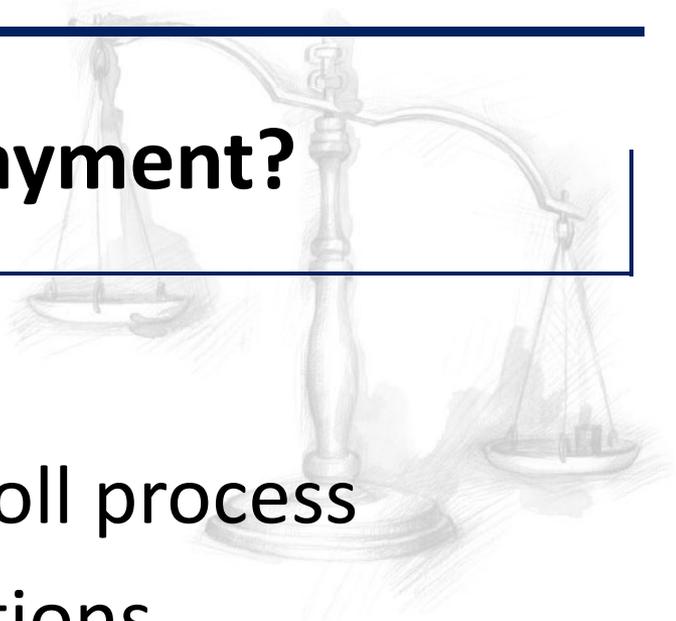


On-Demand Payments

Carolyn Horwich
Director, Human Resources

What is an On-Demand Payment?

- Expedites payment
- Replaces the manual payroll process
- Used for emergency situations
- Available in other limited cases
- 35 existing reason codes



Effects of an On-Demand

- Pre-tax deductions
- Post-tax deductions



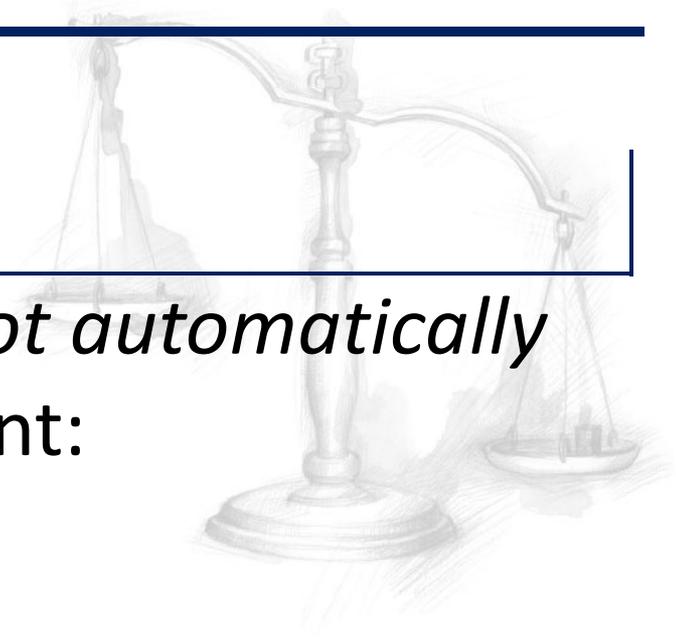
Pre-tax Deductions

- Pre-tax deductions are *automatically* restored to circuit's account:
 - FICA & payroll taxes
 - Pension
 - Deferred compensation
 - Medical Reimbursement



Post-tax deductions

- Post-tax deductions are *not automatically* restored to circuit's account:
 - Banks
 - Credit unions
 - Medical, dental, life insurance
 - Charitable organizations
- Leaves the state financially vulnerable



Post-tax deductions (con't)

- Payments go to third-party vendor
- Result is vendor gets a wrong payment
- JAC sends vendor form asking for refund of over-payment
- Compliance varies
- If vendor complies, JAC sends salary refund to deposit back into circuit's account



Appropriate use of On-Demand

- Employee goes from OPS to FTE
- Settlement payment
- Beneficiary payout
- Tax refund
- Salary refund
- Recoupment of state property
- Employee bank account compromised



Appropriate use of On-Demand (con't)

- Leave payouts involving:
 - Flexible savings account
 - Medical reimbursement account
 - Dependent care reimbursement account
 - Deferred compensation deduction
 - Employee changes circuits or agencies within state government
 - Excess of 480 hours (☺)
 - employee retires or terminates with last day worked 6/30/14; circuit wants payout processed from current year funds.



Inappropriate use of On-Demand

- Missed payroll deadline
- OPS employees
- Leave payouts *prior* to 31 days from termination
- Sometimes circuit requests payout prior to employee joining DROP. Dilemma is People First will not allow payout prior to actually joining DROP (even if PAR is processed)

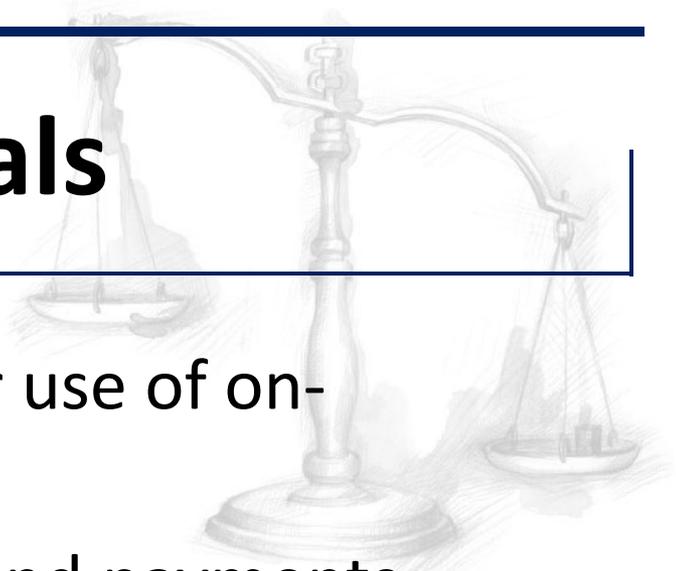


New Approach - Background

- Auditor General Report No. 2014-184
 - Over-use of on-demand payments
 - No written procedures for recovering overpayments
 - Lack of timely recovery efforts
 - Failure to document recovery efforts
 - State was losing money

New Approach - Goals

- Educate agencies as to proper use of on-demand payments
- Decrease number of on-demand payments
- Use supplemental payroll instead
- Monitor use of discretionary on-demand functions



Questions?

Contact Info:

JAC Payroll

Payroll@justiceadmin.org

850-488-2415

JAC Website: www.justiceadmin.org



On-Demand Payroll Key Performance Indicator Report Frequently Asked Questions (FAQs)

1. What is the purpose of the On-Demand Payroll Key Performance Indicator (KPI) report?

The purpose for this KPI is to 1) reduce the number of payments that are processed using the On-Demand Payroll System and to 2) encourage accurate and timely processing of employee payments using the People First system, reducing the additional efforts required to process a payment through the On-Demand Payroll System (e.g., cancel original payment, reissue payment).

2. What does the KPI reflect?

This KPI reflects the total number of payments processed using the On-Demand Payroll System for each agency that should have been processed in People First.

3. How was the target calculated?

The monthly target of on-demand payments was based off total employee population as of June 2014 and then compared to a six-month average of on-demand payments that should have been processed through People First. This baseline was then reduced by 20 percent to arrive at the target percentage. The employee population and baseline will be updated as of June 30 each year.

4. What is the target goal?

No more than 1 percent of an agency's average population as of November 2013, or no more than three payments per month for agencies with small populations (less than 300 employees). The goal is to reduce the number of on-demand payments by at least 20 percent each year, eventually significantly reducing unnecessary use of the On-Demand Payroll System.

5. What types of payments are excluded?

The following payments have been identified by People First as payments that cannot be processed by any other method other than the On-Demand Payroll System.

- Leave payout where an FSA (MRA or DCRA), Deferred Compensation or other agency-unique miscellaneous deduction (salary refund, etc.) is calculated
- Beneficiary payouts
- Tax refunds
- Settlements
- Payments made to AmeriCorps volunteers (currently only applies to the Department of Environmental Protection and the Department of Children and Families)
- CJIP payments

6. What qualifies as "Other" payments?

Any payment processed using the On-Demand Payroll System, that both does not fall into one of the other categories and that should have been processed using the People First system. For example: FLSA Comp leave (ERN 9121) or OPS Nonrecurring Pay (ERN 9112).

7. What is the measurement period for each monthly report?

The monthly report includes all on-demand payments for the previous calendar month being reported based on payments warrant dated in that month (first to last day of the month). A preliminary report will be sent by the 5th of each month and the final report will be provided by the 15th of each month.

8. If an agency believes there is a discrepancy in the total numbers of payments reported, how can the data be corrected?

Once the preliminary report is provided (by the 5th of each month), agencies can reach out to Melissa Vickery to clarify why payments should be excluded. Agencies must reach out by the 13th of the month in order for any agreed upon correction to be included in the final report (sent by the 15th). Contact Melissa Vickery at Melissa.Vickery@dms.myflorida.com or at 850-488-4733 should you find any potential discrepancies or have any questions.



RULE INTERPRETATION

STATUTE/RULE REFERENCE NUMBER: <i>Section 110.122(1) and (3), Florida Statutes (F.S.), Terminal payment for accumulated sick leave</i> <i>Section 121.091(13)c.2., F.S., Benefits Payable Under the System</i> <i>Rule 60L-34.004, Florida Administrative Code (F.A.C.), Annual Leave</i> <i>Rule 60L-34.0042, F.A.C., Sick Leave</i>	TRACKING NUMBER: <i>60L-34-2008-#003</i>
SUBJECT: <i>Waiting Period for the Payment or Transfer of Accrued Leave and Verification of Eligibility for Subsequent Payments for Separating Career Service, SES and SMS Employees</i>	
APPROVAL SIGNATURE: Sharon D. Larson, Director 	EFFECTIVE DATE: <i>Issued - April 2, 2008; Revised July 26, 2010; Revised January 12, 2011; Revised: August 10, 2011</i>



Question 1:

Is there a period of time that agencies should wait before processing payment of annual leave when an employee leaves the agency?

Interpretation:

Yes. Inasmuch as Rule 60L-34.0041(5)(b), F.A.C., requires that the receiving agency credit the employee's unused annual leave when an employee is hired within 31 days of separating from another State Personnel System (SPS) agency, it is sound fiscal practice for agencies to wait 31 days before processing payments for unused annual leave to ensure that the employee has not transferred to another SPS agency in the interim.

Even when employees indicate that they are terminating from state government, if they are permitted to receive a terminal payment for their annual leave before 31 days has elapsed, such employees will have potentially received an overpayment if reemployment takes place within those 31 days. The former employing agency would then need to take steps to have such employees repay the money that was received in error from the terminal payment.

The SPS policy of waiting 31 (calendar) days relieves the agency from the administrative burden of collecting overpayments and protects the employee from any financial hardships that could arise from being required to repay any monies received in error.

(In addition, should the employee wish to tax shelter part of the payment under the Deferred Compensation Program, this waiting period may be useful for ensuring all the appropriate paperwork has been processed beforehand.)

Question 2:

Before processing any annual leave payment, does the agency need to verify whether or not the employee previously received an annual leave payment?

Interpretation:

Yes. With the inception of Service First legislation in 2001, a lifetime cap was placed on annual leave payments made to Career Service employees separating on or after January 1, 2002. In addition, it has come to our attention that the 31-day waiting period for payment of annual leave to any SPS employee (whether Career Service, SES or SMS) may not have been consistently observed following the January 1, 2002 re-issuance of the attendance and leave rule. Consequently, before processing an annual leave payment for any employee entering DROP or separating from employment, the agency should verify whether the employee received any annual leave payment (on or after January 1, 2002) from an SPS agency for leave credits that should have transferred to another SPS agency instead. The date of separation and the date of subsequent hire within the SPS should not be within the same 31 calendar days. If it is discovered that the employee was rehired prior to the 31-day termination requirement, the agency must reduce the current leave payout by the number of hours for which the employee was erroneously paid. For example:

- An SES employee terminates from SPS Agency A on 1/21/2002. 420 hours of annual leave and 192 hours of sick leave are processed and paid on 1/31/2002.
- This same SES employee is hired by SPS Agency B on 2/18/2002.

In the above scenario, the employee should not have been paid for accrued leave because 31 days had not elapsed. However, if such error is not found by either SPS agency until the employee experiences another event that qualifies for payment (e.g., the above employee requests to enter DROP in 2011 or decides to separate from service in 2011), then the only payment that the SES employee may receive from Agency B is the difference between the maximum payout (480 hours) and the actual payout made in error in 2002. At this point, if the combined amount of annual leave that was paid in error and paid upon DROP entry equals the maximum payment permissible when entering DROP, the employee would not be eligible for another payment upon separation from service (exiting DROP).

As sick leave is not payable upon entering DROP, verification of any sick leave payment would only need to occur upon the termination of an employee. When an employee terminates employment, any sick leave payout (up to the maximum of 25% of the total balance or 480 hours, whichever is less) would also need to be reduced by a previous payment if received in error. In our example above, 192 hours would not be eligible for payment and shall be reduced from any balance currently payable to the employee.

Note: As part of their due diligence with all new employees, agencies can verify if the last employer was a State Personnel System agency and, if so, whether leave credits are being properly transferred. This practice should eventually eliminate the need for retroactive verification at the time the employee is entering DROP or separating.

Question 3:

How does the agency verify if leave was paid to an employee?

Interpretation:

Annual leave payouts received by any employee after the implementation of the Service First rules that limited Career Service payouts to a lifetime maximum of 240 hours, can be verified in the Bureau of State Payrolls payroll system (PYRL) using the Annual Leave Payment screen under the Employee Information (EI) menu. This PYRL screen will show the date and the amount of Annual Leave paid to an employee. The system, however, does not show any sick leave payments. Sick Leave would have to be verified through a search of payroll registers for up to 90 days following the employee's termination.

Question 4:

Does the 31-day waiting period apply when processing payment for other forms of accrued leave (e.g., sick leave) when an employee leaves the agency? *(except in JUNE)*

Interpretation:

Yes. For consistency, the terminal payment of other forms of leave is handled in the same manner as annual leave, as indicated in Question 1 above. In addition, before processing any payment of these other leave types, the agency should verify that any prior payments were not made prematurely, as indicated in Question 2.

Question 5:

Does the 31-day waiting period apply to employees who are retiring or who have completed the Deferred Retirement Option Program (DROP)?

Interpretation:

Yes. The 31-day waiting period applies equally to all employees who are separating from the agency, to ensure full compliance and a uniform approach to the processing of terminal leave credits.

Question 6:

Does the 31-day waiting period apply to employees who are separating in order to accept OPS employment?

Interpretation:

Yes. When the employee separates from the agency whether it is to accept OPS employment within the same or a different agency, the 31-day waiting period shall apply. This is to ensure full compliance and a uniform approach to the processing of terminal leave credits.


Question 7:

How should the payment or transfer of annual leave be handled when an employee moves from an agency within the State Personnel System to a state government position outside of the State Personnel System within 31 days?

Interpretation:

Pursuant to the provisions of Rule 60L-34.0041(5)(c), F.A.C., if the receiving employer will accept the credits, then the credits shall be transferred. If the receiving employer will not accept the credits, then the leave is to be paid in accordance with Rule 60L-34.0041(6), F.A.C.

If the receiving employer accepts only a portion of the leave balance, then the combination of the number of hours transferred and the number of hours paid cannot exceed the maximum number of hours payable for the pay plan (e.g. 240 hours for Career Service employees and 480 hours for SES and SMS employees). Any hours in excess of the maximum number of hours payable for the pay plan are forfeited.

When an employee moves from an agency within the State Personnel System to a state government position outside of the State Personnel System after 31 days, a separation has occurred and the employee should receive a terminal payment, if eligible. Leave can no longer be transferred after 31 days.

Note: Nothing in this rule interpretation precludes an agency outside the State Personnel System from choosing to credit the employee with all or a portion of the forfeited leave balance. Consequently, upon request from the receiving employer, agencies may provide certification regarding the number of hours transferred, the number of hours paid and the number of hours forfeited. The purpose of this interpretation is to clarify what should be occurring within State Personnel System agencies.

Also, reference the Program Guidelines issued by HRM entitled "Senior Management Service (SMS) & Selected Exempt Service (SES) Pro-ration/Payment Instructions for Annual Leave", for specific instructions regarding the proration of annual leave for SES and SMS employees.

Statute Citation:**Section 110.122 (1) and (3), F.S., Terminal payment of accumulated sick leave**

(1) All state branches, departments, and agencies which have the authority to establish or approve personnel policies for employees and to employ personnel and establish the conditions of their employment shall establish policies to provide terminal "incentive" pay for accumulated and unused sick leave to each employee upon normal or regular retirement for reason other than disability or upon termination of employment, or to the employee's beneficiary if service is terminated by death, provided such retirement, termination, or death occurs after 10 years of creditable state employment

(3) The payments authorized by this section shall be determined by using the rate of pay received by the employee at the time of retirement, termination, or death, applied to the sick leave time for which the employee is qualified to receive terminal "incentive" pay under the rules adopted by the department pursuant to the provisions of this section. Rules and policies adopted pursuant to this section shall permit terminal pay for sick leave equal to one-eighth of all unused sick leave credit accumulated prior to October 1, 1973, plus one-fourth of all unused sick leave accumulated on or after October 1, 1973. However, terminal pay allowable for unused sick leave accumulated on or after October 1, 1973, shall not exceed a maximum of 480 hours of actual payment. Employees shall be required to use all sick leave accumulated prior to October 1, 1973, before using sick leave accumulated on or after October 1, 1973.

Section 121.091(13), F.S., Benefits Payable under the System

c.2. Each employee who elects to participate in DROP may elect to receive a lump-sum payment for accrued annual leave earned in accordance with agency policy upon beginning participation in DROP. The accumulated leave payment certified to the division upon commencement of DROP shall be included in the calculation of the member's average final compensation. The employee electing the lump-sum payment is not eligible to receive a second lump-sum payment upon termination, except to the extent the employee has earned additional annual leave which, combined with the original payment, does not exceed the maximum lump-sum payment allowed by the employing agency's policy or rules. An early lump-sum payment shall be based on the hourly wage of the employee at the time he or she begins participation in DROP. If the member elects to wait and receive a lump-sum payment upon termination of DROP and termination of employment with the employer, any accumulated leave payment made at that time may not be included in the member's retirement benefit, which was determined and fixed by law when the employee elected to participate in DROP.

Rule Citation

Rule 60L-34.0041, F.A.C., Annual Leave

- (5)(b) If an employee moves from one position in the State Personnel System to another position in the State Personnel System in a different agency within thirty-one days, the receiving agency shall credit the employee's unused annual leave.
- (5)(c) If an employee moves from a position in the State Personnel System to a position outside the State Personnel System, the agency shall either transfer unused annual leave credits to the system into which the employee is transferring, or, if the new system will not accept the credits, pay for the credits subject to subsection 60L-34.0041(6), F A C. For either transfer or payment, current year credits shall be prorated.
- (6)(a) A career service employee who separates from state government with twelve continuous months of service shall be paid for unused annual leave, up to a lifetime maximum of 240 hours. With respect to leave payments received at the

time of separation, agencies shall only include payments for separations occurring after December 31, 2001 in the calculation of the lifetime maximum. In case of death of an employee, the 240-hour limit shall not apply and all unused annual leave at the time of death shall be paid to the employee's beneficiary, estate, or as provided by law.

- (6)(b) A senior management service or selected exempt service employee who separates from state government shall be paid for unused annual leave up to a maximum of 480 hours, with the current year's accrual prorated. In case of death of an employee, the 480-hour limit shall not apply and all unused annual leave at the time of death shall be paid to the employee's beneficiary, estate, or as provided by law.

Rule 60L-34.0042, F.A.C., Sick Leave

- (7) The following provisions govern the retention and transfer of sick leave credits.
- (a) Credits shall be transferred within the State Personnel System, and may be transferred to another state government employer, depending upon whether the receiving plan accepts the employee's leave credits. If the receiving employer does not accept the credits, the employee shall be paid for the credits if eligible under Section 110.122(1), Florida Statutes; otherwise, the credits shall expire.

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